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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

In re: County of Monterey Initiative Matter  
and

In re: Monterey Referendum

) NO: C 06-01407 JW  
) NO: C 06-02202 JW  
) NO: C 06-02369 JW

**NOTICE OF MOTION AND MOTION TO  
CLARIFY OR ALTER JUDGMENT**

) Date: May 21, 2007  
) Time: 9:00 a.m.  
) Place: Courtroom 8  
) Judge: Honorable James Ware  
)  
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)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE THAT ON May 21, 2007, at 9 a.m., or as soon thereafter as the matter may be heard in Department 8 of the above-titled Court located at 280 South 1st Street, San Jose, California, 95113, Defendant County of Monterey, The Board of Supervisors of the County of Monterey, and Anthony Anchundo (the "County") will bring before the Court its Motion To Clarify or Alter Judgment.

**A. Relief Sought**

The County moves this Court for an order that the judgment entered by the Court on March 29, 2007 ("Judgment") be altered such that the word "fees" in the following two sentences be stricken from the Judgment, or alternatively to clarify that the word "fees" as used in the two sentences was not meant to refer to attorneys' fees.

1. "The Plaintiffs are entitled to recover reasonable costs and fees." Page 1, line 26, of Judgment.

2. "The Plaintiffs are entitled to recover reasonable costs and fees." Page 2, lines 8-9, of Judgment.

**B. Summary of Grounds**

The Motion is based upon several grounds, including: 1. The inclusion of a decision entitling the Plaintiffs to attorneys' fees is premature and improper, in light of the plaintiffs' motion for such fees, the absence of any briefing or argument on the issue of entitlement to attorneys' fees prior to the entry of the Judgment, or on the issue of the interplay of federal and state laws regarding attorneys' fees; 2. Plaintiffs have not brought an attorney general type of action warranting them to any award of attorneys' fees pursuant to 42 U.S.C. § 19731; and 3. Plaintiffs have not fulfilled any procedural requirements to demonstrate the entitlement to an award of attorneys fees under any federal or state statute.

The County brings this Motion pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, and bases its Motion upon this Notice of Motion and Motion, the Memorandum of Points and

1 Authorities submitted herewith, the files and records in this action, and such other evidence as may be  
2 introduced at the hearing on this matter.

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4 Dated: April 12, 2007

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

5 /S/

6 By: \_\_\_\_\_  
STEPHEN N. ROBERTS

7 Attorneys for Defendants  
8 COUNTY OF MONTEREY, THE BOARD OF  
9 SUPERVISORS OF THE COUNTY OF MONTEREY, AND  
10 ANTHONY ANCHUNDO  
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